rule as stated by the court in the opinion under discussion, by putting the burden of this issue upon the defendant, would allow the jury to find guilt, though it was unable to say that the killing was not justified. We must concede great conflict in the authorities here, much of it evidently resulting from loose thinking upon what is meant by "burden of proof." The modification of the rule as applied by the court would relieve the defendant from this burden whenever the evidence of the state shows that defendant claimed to act in self-defense. The rule in each of its forms has the considerable support of courts entitled to respect. We have it, (a) a reasonable doubt as to whether defendant acted in self-defense requires an acquittal; (b) unless there is a preponderance of evidence in favor of defendant's contention that he acted in self-defense he should be convicted; and (c), where there is no reasonable doubt but that defendant did the killing the burden is on him to produce a preponderance of evidence to show that the killing was in self-defense, unless the evidence of the state discloses that the defendant claims to have acted in self-defense, when the contrary would be true. The court applied the rule as last stated upon the authority of *State* v. *Patterson,* 45 Vt. 308, 12 Am. Rep. 200, without, singularly enough, making any reference to *Alexander* v. *People,* 96 Ill. 96, or *Kipley* v. *People,* 215 Ill. 358, both of which are precisely in point. Conflict cannot be eliminated by detailed discussion of the cases. An excellent resume of them up to the time of its publication can be found in a note to *Com.* v. *Palmer, 222* Pa. 299, as reported in 19 L. R. A. (n. s.) 483. In the abstract, no rule can be right which is wrong in principle, and if it be the law that guilt cannot be found without conviction of it beyond a reasonable doubt, then the rule applied by the court, which allows it to be done, is wrong.

It may not be quite without justification to refer to the holding of the court that it was error to allow the state's attorney, in his argument to the jury, to refer to and read notes of evidence made by him during the trial. There was no contention that the attorney made any other claim than that he was giving his recollection of the evidence as refreshed by his notes. That so common, and may it be said so reasonable, a practice should vitiate a trial is but to stimulate a practice so loose as to encourage the assignment of almost any triviality as error. V. H. L.

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STREETS—STATUTORY DEDICATION—VACATION AND REVERTER.—The common law dedication of a street confers on the public a right of user in the nature of an easement. The "fee" of the street continues in the dedicator; he may enjoy and use it in any manner not inconsistent with street uses; if the street is vacated or abandoned he enjoys it, as originally, free from the burden of public rights. TIFFANY, REAL PROPERTY (Ed. 2), § 486; DILLON, MUNICIPAL CORPORATIONS (Ed. 5), § 1076. But if the dedicator transfers a lot or block abutting on the street, his conveyance is presumed to carry the title to the center of the street. TIFFANY, *op. cit.,* § 446; 3 KENT, COMMENTARIES, 433. "The effect thus given to conveyances * * * is based not only on the presumption that the parties intend the ownership thereof

to be vested in the person who is alone, usually, in a position to make use of it, and who probably will need to do so, but also * * * upon the ground of public policy which renders it desirable to prevent the existence of small strips of land * * * the title to which may remain in abeyance for many years, and which may then be asserted merely in order to harass the owner of the adjoining land" (TIFFANY, *op. cit.*, § 445—language used in another connection, but equally applicable here). The net result of this presumption and of the rules as to ownership above stated is that in the usual case the owners of abutting land, and not the dedicator of the street, reap the practical fruits of its vacation or abandonment. ELLIOTT, ROADS AND STREETS (Ed. 2), §§ 885, 886.

Many of our western and mid-western states have adopted legislation authorizing what is commonly called "statutory dedication." This form of dedication does not supplant the common law method, but rather furnishes a more formal way of indicating the intent to dedicate. TIFFANY, § 482. The dedication statutes usually provide that an owner may devote property to the public use for streets, alleys, parks, etc., by duly executing and recording a plat upon which are shown the strips and tracts intended for these purposes. *In most jurisdictions the statute is so phrased, Cox* v. *L. & N. R. R.*, 48 Ind. 178, 181; *Bradley* v. *Spokane, etc., R. Co.*, 79 Wash. 455; or is rather questionably construed in such a way (*Schurmeier* v. *R. R.* 10 Minn. 59, 77; *Betcher* v. *R. R.*, 110 Minn. 228; *Snoddy* v. *Bolen*, 122 Mo. 479, 491; *Hatton* v. *St. Louis*, 264 Mo. 634, 643; *Leadville* v. *Bohn Mining Co.*, 37 Colo. 248; *Olin* v. *R. R.*, 25 Colo. 177; *Sowadski* v. *Salt Lake Co.*, 36 Utah 177; *Donovan* v. *Albert*, 11 N. D. 289, 292; *Kimball* v. *Kenosha*, 4 Wis. 321) as to be in effect declaratory of common law principles, so that the title to streets dedicated thereunder and the reverter of the same upon vacation or abandonment are governed by the rules heretofore stated. In Iowa and Nebraska the public is held to have a fee simple absolute; there is no reverter at all when a street is vacated. *Dempsey* v. *Burlington*, 66 Ia. 687; *Lake City* v. *Fulkerson*, 122 Ia. 569; *Wahoo* v. *Nethaway*, 73 Neb. 54; *Carroll* v. *Elmwood*, 88 Neb. 352. But see *Kenwood Park* v. *Leonard*, 177 Ia. 337.

The Illinois statute provides that "The acknowledgment and recording of such plat shall be held * * * to be a conveyance in fee simple of such portions of the premises platted as are marked or noted on such plat as donated or granted to the public * * *. And the premises intended for any street, alley, way, common or other public use in any city, village or town, or addition thereto, shall be held in the corporate name thereof in trust to and for the uses and purposes set forth or intended." Rev. Stats. 1913, Ch. 109, § 3. The Illinois supreme court has again and again held that the city has a base or determinable fee in streets dedicated under this statute. *Gebhardt* v. *Reeves*, 76 Ill. 301; *Prall* v. *Burckhartt* (Ill.), 132 N. E. 281. The same view is suggested in *Kimball* v. *Kenosha*, 4 Wis. 321; *Sowadski* v. *Salt Lake Co.*, 36 Utah 127; *Cullen* v. *Elec. Light Co.*, 66 Oh. St. 166. Upon this construction, the platter retains a possibility of reverter in the

street expectant upon the termination of the fee in the municipality. Such a "mere possibility" is personal to the grantor and his heirs, according to general principles, and is inalienable (TIFFANY, § 132); and even if a possibility of reverter be regarded as alienable, there is a real logical difficulty about holding a mere right of this character to be embraced by implication in a conveyance of land abutting on the street in which the contingent interest exists. Apparently we are driven to the conclusion that the original platter or his heirs, and not the abutting owner, is entitled to a vacated street. And yet, although several states have statutes similar in substance to the one quoted above, Illinois has been alone in arriving at the conclusion indicated. (Compare cases from Minnesota, Missouri, Colorado, etc., above, which escape this result by construing a statutory dedication as equivalent to a common law dedication; also *Pettingill* v. *Levin,* 35 Ia. 344, 355, where the public fee is held to be absolute; and *Traction Co.* v. *Parish,* 67 Oh. St. 181, 190, where the public is said to have a base fee (as in Illinois), but the possibility of reverter passes by implication with abutting land.) Whatever may be said for the Illinois construction, as a matter of logic, there can be no doubt of its inconvenience. Every reason for presuming that a grant of land along a common law street carries to the center thereof applies with full force here. It makes no difference, from the viewpoint of public policy, whether the objectionable "small strips of land," title to which "may remain in abeyance for many years," and which are severed in ownership from the abutting lots with which alone they can be used and enjoyed, are created under a common law dedication or under a statutory dedication.

Doubtless moved by just these considerations and by a desire to avoid a result like that reached in the early Illinois cases, the legislatures of Illinois (1851) and of other states in which statutory dedication is recognized have passed later statutes declaring that the abutter and not the original platter is entitled to a vacated street. DILLON, § 1160, p. 1845. The Illinois Vacation Act provides that when any street is vacated "the lot or tract of land immediately adjoining on either side shall extend to the center line" thereof. Rev. St. Ill. 1913, Ch. 145, sec. 2. In *Helm* v. *Webster,* 85 Ill. 116, this statute was held unconstitutional as applied to a street previously dedicated, for the reason that the possibility of reverter was a property right of which the legislature could not lawfully deprive the platter. The language of the court was sufficiently broad to include dedications made either before or after the passage of the Vacation Act. Expressions of similar tenor and effect were used in several earlier and several later cases (all cited and discussed in *Prall* v. *Burckhartt, supra*); these expressions have been quite generally assumed to represent the law in Illinois. DILLON, § 1160 (p. 1845, note 4); KALES, ESTATES AND FUTURE INTERESTS (Ed. 2), § 293. Such a view, if adhered to, was, however, most unfortunate, as it not only established the inconvenient rule that streets dedicated by plat revert to the platter upon being vacated, but it placed that rule beyond legislative power of correction. (For an excellent discussion of the Illinois cases see KALES, *supra,* §§ 283-293.)

It is, therefore, very interesting to find that in a recent case, *Prall* v. *Burckhartt*, 132 N. E. 281, the supreme court of Illinois expressly sustains the Vacation Act as to streets subsequently dedicated: "The provisions of the Plat Act and the Vacation Act heretofore referred to were both then in force and must be construed *in pari materia*, and it would seem to follow that appellee, in making and recording the plat of 1889, must be held to have done so in contemplation not only of the Plat Act but also of the Vacation Act." The court did not find it necessary in *Prall* v. *Burckhartt* to overrule earlier cases dealing with dedications made prior to the Vacation Act, but the whole of the opinion would indicate that the court is prepared to overrule them; it dilates upon the fact that the rule of *stare decisis* is based on expediency and should not be allowed to outweigh greater evils which will result from continuing in force an erroneous rule of law; it argues emphatically the impolicy of the view which gives the vacated street to the original platter; and says that a mere possibility of reverter is not property within the scope and meaning of the due process clause. (Compare cases sustaining statutes which alter or abolish existing inchoate dower rights, TIFFANY, § 230). But whether or not the earlier cases still hold in regard to dedications made before the Vacation Act, there can certainly be no objection to the decision of *Prall* v. *Burckhartt* on its facts; it brings the law of Illinois into harmony with the rules prevailing in all other jurisdictions. B. S.

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"UNFAIR METHODS OF COMPETITION"—THE FEDERAL TRADE COMMISSION ACT.—"Unfair methods of competition in commerce are hereby declared unlawful." 38 Stat. L. 717. This is the vital portion of the Federal Trade Commission Act. The discussions in the United States Senate attendant upon the passage of this measure reveal that there was scarcely any agreement among its supporters as to what the words "unfair methods of competition" meant. Apparently the only harmony in the expressed views was that the term used was to have a broader significance than the expression "unfair competition" had at common law. 25 YALE L. J. 20. This lack of agreement precluded a resort to the Congressional proceedings as an aid to interpreting the statute, further, perhaps, than to find an intent to broaden the conception of unfair trade at common law. Indeed, what authoritative comment there was was equally as indefinite as the final enactment. Put forth into a field where the common law was at best uncertain and still in a formative stage, there is little wonder that those authorities who ventured to express an opinion upon the meaning of the statute, quite as uncertain, should have been in marked disagreement. While the conception of what was unfair in competition for quite some time had been narrow, being limited to cases of "passing off," later cases extended the doctrine so much that it is safe to say that without the aid of the present statute the courts would soon have arrived at the stage where they now are with its assist-